

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 08-8075

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

VINCENT L. BERNABELA, a/k/a Wink, a/k/a Shaun Robinson, a/k/a
Lee Alvin Sampson,

Defendant - Appellant.

Appeal from the United States District Court for the Western
District of North Carolina, at Charlotte. Frank D. Whitney,
District Judge. (3:01-cr-00148-FDW-4)

Submitted: April 23, 2009

Decided: April 30, 2009

Before MICHAEL, GREGORY, and DUNCAN, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Vincent L. Bernabela, Appellant Pro Se. Amy Elizabeth Ray,
Assistant United States Attorney, Asheville, North Carolina, for
Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Vincent L. Bernabela appeals the district court's order denying his motion for reduction in sentence pursuant to 18 U.S.C. § 3582(c)(2) (2006). Bernabela's contentions that the court could have considered a sentence below the amended guidelines range and that he was entitled to a full resentencing hearing under United States v. Booker, 543 U.S. 220 (2005), are foreclosed by our decision in United States v. Dunphy, 551 F.3d 247 (4th Cir. 2009), petition for cert. filed, ___ U.S.L.W. ___ (U.S. Mar. 20, 2009) (No. 08-1185). We have reviewed the record and find no reversible error. Accordingly, we affirm the decision of the district court. We deny Bernabela's motion for appointment of counsel and dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

AFFIRMED